



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,000	12/17/1999	MICHAEL WAYNE BROWN	AUS990846US1	9662

7590 03/13/2002

ANDREW J DILLON  
FELSMAN BRADLEY VADEN GUNTER AND DILLON  
LAKEWOOD ON THE PARK SUITE 350  
7600B NORTH CAPITAL OF TEXAS HIGHWAY  
AUSTIN, TX 78731

EXAMINER

LUU, SY D

ART UNIT PAPER NUMBER

2174

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/466,000

Applicant(s)

BROWN ET AL.

Examiner

Sy D Luu

Art Unit

2174

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28, 31-58 and 60-72 is/are rejected.
- 7) ☒ Claim(s) 29, 30 and 59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 24 is objected to because of the following informalities: the phrase "with a said food preferences" should be changed to -- with said food preferences --

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 42-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 42-43 recite "The system for specifying an electronic food menu according to claim 21" on lines 1-2. Since claim 21 claims a method and not a system, there is insufficient antecedent basis for the limitation in the claim.

The examiner interpret claims 42-43 to depend on claim 31 to remain consistent with the claim language. However, appropriate corrections are required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Art Unit: 2174

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 67-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Camaisa et al. ("Camaisa", US # 5,845,263).

As per independent claim 67, Camaisa teaches a system for displaying an electronic food menu, said system comprising:

a data storage medium comprising a plurality of food menu items (col. 5, lines 40-50; *audiovideo database*);

a data processing system with access to said data storage medium, wherein said data processing system comprises: a communications medium for retrieving said plurality of food menu items from said data storage medium; a graphical display that displays said plurality of food menu items according to a display style (col. 5, lines 59-62).

As per claim 68-70, Camaisa teaches said communications medium to comprise a wireless data transmissions, which comprise radio frequency data transmissions and infrared data transmissions (col. 6, lines 30-35).

### ***Claim Rejections - 35 USC § 103***

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 2174

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9, 11-12, 14, 16-17, 20-28, 31-39, 41-42, 46, 48-49, 52-58, 60-62 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikOrder Press Release "QuikOrder" in view of Freeman et al. ("Freeman", US 6,068,183).

As per independent claim 1, QuikOrder teaches a method for specifying an electronic food menu, said method comprising the steps of:

retrieving a plurality of food menu items from a data storage device, and selecting a food menu for said particular customer, such that an electronic food menu is specified for a particular customer (page 1, sections D and F; *when a user logs in to the personal account, not only selections of general food choices are available, but also a retrieval of the user's food preferences or favorites from prior orders is made*).

QuikOrder does not disclose the steps of: comparing said plurality of food menu items with previously stored food preferences for a particular customer, and selecting a food menu wherein said plurality of food menu items that satisfy said food preferences for said particular customer are designated. Freeman teaches a method for presenting product information of interest to a consumer in accordance with the consumer profiles (col. 2, lines 8-19). It would have been obvious to an artisan at the time of the invention to combine Freeman's use of

Art Unit: 2174

customer profiles with QuikOrder in order to tailor the presentation of food menu according to a particular customer's preference by comparing a customer's preference with available products and retrieving those items that match the preference.

As per claims 2 and 4-9, QuikOrder and Freeman do not explicitly teach the steps of graphically displaying said selected food menu according to a output preference for said particular customer, such that the graphical representation of said selected food menu is provided to accommodate/designate: (a) a display preference for said particular customer; (b) displaying the selected food menu in order from designated food menu items to non-designated food menu items; (c) graphically distinguishing the food menu items that do not satisfy the customer's food preferences from those items that do satisfy (d) a tactile-detectable graphical representation; (d) a particular font size; (f) a particular language; (g) particular currency. Official Notice is given that these features are all well known in the art of graphical presentation of menu options for selections. It would have been obvious to an artisan at the time of the invention to further combine these features with the method of QuikOrder and Freeman in order to facilitate users viewing and comprehension as well as interface interactions.

As per claim 3, QuikOrder teaches the graphically displaying only said plurality of food menu items of said selected food menu that are designated (page 1, section F; *presenting a list of a customer's prior orders, i.e. customer's preferences/favorites*).

As per claims 11, 23-25 and 28, QuikOrder and Freeman do not expressly disclose: the steps of graphically printing said selected food menu for said particular customer, confirming electronic payment for said order, adjusting a waiting period for said order in accordance with said food preferences for said particular customer, and updating an electronic calendar with said

Art Unit: 2174

food menu items and said electronic coupons that are specified for a particular time period. Official Notice is given that these features/steps are all well known in the art. It would have been obvious to an artisan at the time of the invention to include these steps with the method of QuikOrder and Freeman in order to allow vendors/users perform and track appropriate on-line processing.

As per claims 12, 14, 16 and 17, QuikOrder teaches the steps of: graphically displaying said selected food menu according to a generic style sheet, receiving said plurality of food menu items via a network connection or in a data transmission protocol, and transmitting said food menu items in an extensible mark-up language protocol (page 1, section D; *inherent to the use of internet browsers for interacting with order menu's*).

As per claim 20, QuikOrder teaches the step of transmitting said previously stored food preferences for said particular customer to said data storage medium for storage (page 1, sections D and F; *inherent to allow QuikOrder management of User's Account and food preferences*).

As per claims 21 and 26-27, Freeman teaches the steps of determining electronic coupons to provide a particular customer from said stored food preferences, receiving electronic coupons for said plurality of food menu items from said data storage medium, and filtering said electronic coupons that are displayed to a particular customer according to said food preferences (col. 1, lines 56-58 and col. 2, lines 8-10).

As per claim 22, QuikOrder teaches the steps of receiving an order from said particular customer for food menu items from said selected food menu; and transmitting said order to an order retrieval system (page 1, section E).

Art Unit: 2174

Claims 31-39 are similar in scope to claims 1-9 respectively, and are therefore rejected under similar rationale.

Claims 41-42 are similar in scope to claims 11-12 respectively, and are therefore rejected under similar rationale.

Claims 46 and 48-49 are similar in scope to claims 14 and 16-17 respectively, and are therefore rejected under similar rationale.

Claims 52 and 54-58 are similar in scope to claims 20, 14, 24, 23, 25 and 26 respectively, and are therefore rejected under similar rationale.

As per claim 53, QuikOrder does not expressly disclose a local data storage medium for storing said selected food menu, such that said selected food menu is recallable from said local data storage medium. Official Notice is given that the use of local data storage for storing information transmitted/downloaded from a remote source is well known in the art. It would have been obvious to an artisan at the time of the invention to include a local storage medium for such use in order to provide quick recall of selected menu items even if the communication is dropped.

Claims 60-62 and 64-66 are similar in scope to claims 1, 5, 2, 6, 20 and 22 respectively, and are therefore rejected under similar rationale.

9. Claims 10, 13, 15, 18-19, 40, 43-45, 47, 50-51 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikOrder Press Release "QuikOrder" and Freeman et al. ("Freeman", US 6,068,183) in view of Camaisa et al. ("Camaisa", US # 5,845,263).

As per claim 10, QuikOrder and Freeman do not teach the step of transmitting auditory output of said selected food menu for said particular customer. Camaisa teaches an interactive



Art Unit: 2174

visual food ordering system, wherein vendors of products maintains a multimedia database containing information about the products such as video and sound (col. 7, lines 18-20). It would have been obvious to an artisan at the time of the invention to combine Camaisa's teaching with the method of QuikOrder and Freeman in order to further enhance an user's interactive experience while in the process of ordering food products.

As per claims 13, 15 and 47 QuikOrder and Freeman do not teach the steps of receiving said plurality of food menu items via a wireless transmission medium, receiving said plurality of food menu items via a wired connection, and a socket interface for receiving said plurality of food menu items via a wired connection. Camaisa teaches these steps at (col. 6, lines 26-37; *computer 102*). It would have been obvious to an artisan at the time of the invention to combine any or all of Camaisa's teachings with the method of QuikOrder and Freeman in order to allow more options as well as flexibility in the implementation of connectivities.

As per claims 18-19, QuikOrder and Freeman do not teach the step of accessing said plurality of food menu items from a database, wherein each of said plurality of food menu items comprises a plurality of food and health identifiers, and accessing said previously stored food preferences from a local data storage medium, wherein said previously stored food preferences for a particular customer comprise a plurality of food and health ratings. Camaisa plurality of food menu items as well as said previously stored food preferences for a particular customer to comprise a plurality of food and health identifiers (col. 3, lines 49-52). It would have been obvious to an artisan at the time of the invention to combine Camaisa's teaching with the method of QuikOrder and Freeman in order to provide users with a means to provide users with nutritional as well as health information.

Art Unit: 2174

Claims 40, 43, 50-51 and 63 are similar in scope to claims 10, 13, 18-19 and 10 respectively, and are therefore rejected under similar rationale.

As per claims 44-45, Camaisa teaches said wireless communication element to support communication via a radio frequency transmission and via an infrared transmission (col. 6, lines 26-37).

*Allowable Subject Matter*

10. Claims 29-30 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for allowance. The prior art made of record fails to anticipate or make obvious the claimed invention. Specifically, the prior art fails to teach, in combination with the remaining elements:

means for comparing said plurality of food menu items with a plurality of previously stored food preferences for a plurality of customers, and means for selecting a food menu wherein said plurality of food menu items that satisfy said previously stored food preferences for said plurality of customers are distinguished, such that an electronic food menu is specified for said plurality of customers as recited in claims 29 and 59.

QuikOrder, Freeman and Camaisa teach a method having a substantial amount of claimed subject matters pertaining to the specifying of an electronic food menu, wherein food preferences for a particular customer are compared with previously stored food menu items, and based on which food menu items are selected for display to the particular customer. However, QuikOrder,

Art Unit: 2174

Freeman and Camaisa alone and in combination still fail to teach, in combination with the remaining elements, the means for comparing said plurality of food menu items with a plurality of previously stored food preferences for a plurality of customers, and means for selecting a food menu herein said plurality of food menu items that satisfy said previously stored food preferences for said plurality of customers are distinguished, such that an electronic food menu is specified for said plurality of customers as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsumori (US 6,246,998 B1) teaches a method for home grocery shopping.

Burke (US 6,026,377) teaches a computer system for allowing a consumer to purchase packaged goods at home.

Kanevsky et al. (US 6,334,109 B1) teaches a distributed personalized advertisement system and method.

Kinebuchi et al. (US 6,208,976 B1) teaches an order management system with automatic menu updating.

Art Unit: 2174

Powell (US 5,727,153) teaches a system for creating, dispensing, and redeeming electronic discount coupons in a store.

Cupps et al. (US 5,991,739) teaches an internet online order method and apparatus.

Coleman et al. (US 6,088,681) teaches a restaurant management system.

Battistini et al. (US 6,087,927) teaches an order communication system for restaurant.

Green et al. (US 5,664,110) teaches a remote ordering system.

*Inquires*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.


The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Sy D. Luu  
Patent Examiner  
March 6, 2002